

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

CYNTHIA DAWKINS)		
)		
Complainant,)		
)	Charge No.	2000SF0571
and)	EEOC No.	21BA0698
)	ALS No.	S-11754
ILLINOIS COMMUNITY)		
COLLEGE BOARD,)		
)		
Respondents.)		

ORDER AND DECISION

August 2, 2004

The Commission by a panel of three:
Commissioners David Chang, Marylee V. Freeman and Yvette Kanter presiding.

On review of the recommended order of Kelli L. Gidcumb, Administrative Law Judge.

For Complainant: Cynthia Dawkins, pro se.

For Respondent John A. Kauerauf, Sorling, Northrup, Hanna, Cullen & Cochran.

Illinois Human Rights Commission: James E. Snyder, General Counsel,
Matthew Z. Hammoudeh, Asst. General Counsel.

This matter comes before the Commission pursuant to a Recommended Order and Decision issued by Administrative Law Judge Kelli L. Gidcumb and exceptions filed thereto. For the reasons set forth herein, the recommendations of Judge Gidcumb are sustained. This matter is dismissed with prejudice.

I. Nature of the Case.

Cynthia Dawkins (Complainant) filed a charge of discrimination on the basis of race (African American) against her employer, the Illinois Community College Board (Respondent). She charged that she was subject to discipline on the basis of her race.

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Following a public hearing Judge Gidcumb issued a Recommended Order and Decision. Judge Gidcumb recommends that the Complaint be dismissed. The Complainant has filed exceptions to the recommended order and the Respondent has filed a response to the exceptions.

II. Commission Proceedings

Judge Gidcumb's recommended order is part of our record and only part is restated here.

Following a public hearing Judge Gidcumb found that:

The Complainant was employed by the Respondent as its Assistant Director of Occupational Programs. An employee of the Respondent accused the Complainant of making too many personal phone calls at work. Judge Gidcumb found that this employee told the Complainant, "that's just how you people are".

Judge Gidcumb recommends that the Commission find that the Complainant failed to establish a prima facie case of race discrimination. Judge Gidcumb found that the Complainant did not present evidence of any adverse act taken against her other than a verbal warning of discipline. Judge Gidcumb concludes that such an act is not of sufficient severity to prove discrimination.

Judge Gidcumb is correct. The Complainant has not shown that the Respondent took adverse employment action against her based on her race.

Judge Gidcumb found that the "you people" remark was made and was reported to the Complainant's supervisor. Perhaps because of the directed finding, the recommended order does not indicate that the Respondent took any action in response to this report.

Judge Gidcumb found that the Respondent used the event of the Complainant's report of discriminatory language as an opportunity to discipline her. The Complainant, who appeared pro se, did not file a charge of retaliation.

Citing other Commission cases, the Respondent's response to the Complainant's exceptions offered a policy statement: If a verbal warning was determined to be an adverse act, it could lead to an employer ending up before the Human Rights Commission every time they suggest a way to improve job performance or point out that the employee did something wrong. Perhaps that is true, but that is not why this case here.

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This case is here because, according to Judge Gidcumb's findings, the allegation about the "you people" remark is true; that this in fact did happen. In addition, according to the Judge's findings, the Respondent took the opportunity of the Complainant's complaint about this remark to discipline her regarding tardiness.

The Respondent argues that "this case concerns one oral warning which in and of itself did not result in any harm to Complainant". But it concerns more harm than that: "That's just how you people are" is not something anyone should hear at work. That should be obvious to any employer.

It is well known in employment law and management that remarks about "you people" are a classic source of legal trouble. Based on Judge Gidcumb findings, the Respondent is aware of some kind of problem in its workplace, other than attendance problems. Although the Respondent is not found liable, it is no surprise that it and the taxpayers have had the pains and expenses of a civil rights complaint.

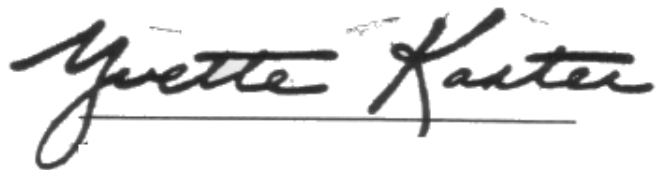
IT IS HEREBY ORDERED THAT:

The Recommended Order and Decision is sustained and this matter is dismissed with prejudice.

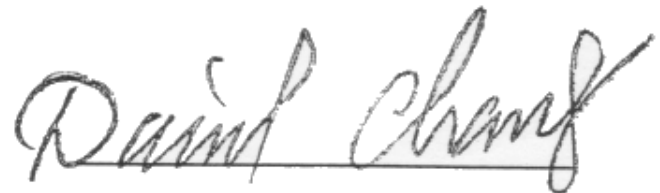
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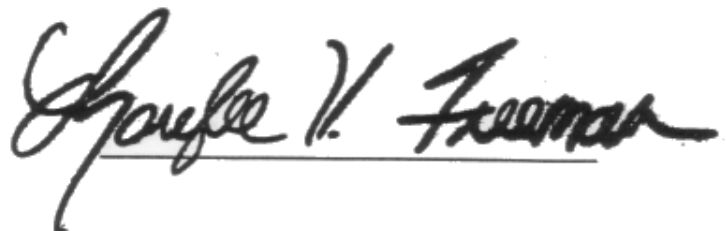
Commissioner Yvette Kanter

A handwritten signature in cursive script, reading "Yvette Kanter", written over a horizontal line.

Commissioner David Chang

A handwritten signature in cursive script, reading "David Chang", written over a horizontal line.

Commissioner Marylee V. Freeman

A handwritten signature in cursive script, reading "Marylee V. Freeman", written over a horizontal line.